

## 1

We concur: SIMS, J.  
NICHOLSON, J

SIMS, Acting P.J.

We concur: RAYE, J.  
KOLKEY, J.

Civil BOYD GIBBONS, as Director, etc., et al (\*)  
No. v.  
C027948 EL DORADO COUNTY WATER AGENCY et al.  
PACIFIC GAS AND ELECTRIC COMPANY  
THE COURT:

The opinion filed herein on November 3, 1999, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered.

FOR THE COURT: SCOTLAND, P.J.

DAVIS, J.

HULL, J.

\*Previously titled “League to Save Sierra Lakes et al.”

## 2

JAROSLAW WASZCZUK  
v.  
DESTEX ENERGY INC.

DAVIS, Acting P.J.

HOECHST CELANESE CORPORATION  
v.  
FRANCHISE TAX BOARD

CALLAHAN, J.

In re the Marriage of Kathleen and TERRY W. ROBERTS  
KATHLEEN ROBERTS (Not for Publication)  
v.  
TERRY W. ROBERTS  
COUNTY OF SAN JOAQUIN

DAVIS, J.

We concur: BLEASE, Acting P.J.  
KOLKEY, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
FRIDAY, DECEMBER 3, 1999 CONTINUED**

3

Crim. THE PEOPLE  
No. v.  
C029392 RODNEY DUANE ALLEN  
THE COURT:

The opinion in the above-entitled matter filed on November 15, 1999, was not certified for publication in the Official reports. For good cause it now appears that the opinion should be published in the official Reports and it is so ordered. (CERTIFIED FOR PUBLICATION)

FOR THE COURT: SIMS, Acting P.J.  
CALLAHAN, J.  
HULL, J.

MONDAY, DECEMBER 6, 1999

Civil TAHOE FOREST HOSPITAL DISTRICT  
No. v.  
C033978 MICHAEL JAMES JUTSKO  
BY THE COURT:

Respondent' motion to dismiss the appeal is granted. The notice of appeal filed October 22, 1999, is dismissed. Since it appears that the complaint between these two parties is still pending, there is no single final judgment. (9 Witkin, Cal. Procedure (4<sup>th</sup> ed. 1997) Appeal, section 74, p. 129.)

December 6, 1999

SIMS, Acting P.J.

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C032172 KENNETH WALTERS

The judgment is affirmed.

SIMS, Acting P.J.

We concur: NICHOLSON, J.  
KOLKEY, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
MONDAY, DECEMBER 6, 1999, CONTINUED**

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Crim. THE PEOPLE (Not for Publication)  
No. v.  
C028143 DENNIS DONNELL ROBERTSON  
The judgment is affirmed.  
SCOTLAND, P.J.  
We concur: DAVIS, J.  
KOLKEY, J.

TUESDAY, DECEMBER 7, 1999

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C030007 THURMAN UPCHURCH  
The judgment is affirmed.  
SCOTLAND, P.J.  
We concur: SIMS, J.  
MORRISON, J.

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C032318 CHRISTOPHER J. XIMENEZ  
The judgment is affirmed.  
MORRISON, J.  
We concur: NICHOLSON, Acting P.J.  
CALLAHAN, J.

Juvenile In re SABRINA P., a Person Coming Under the Juvenile Court Law  
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DEPARTMENT OF HEALTH AND HUMAN SERVICES  
No. v. (Not for Publication)  
C033259 TIFANEY P.  
The orders of the juvenile court terminating appellant's parental  
rights is affirmed.  
RAYE, J.  
We concur: SIMS, Acting P.J.  
KOLKEY, J.

## 5

SCOTLAND, P.J.

We concur: SCOTLAND, P.J.  
DAVIS, J.

RAYE, J.

We concur:   BLEASE, Acting P.J.  
                  HULL, J.

DAVIS, J.

We concur: SCOTLAND, P.J.  
MORRISON, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
TUESDAY, DECEMBER 7, 1999, CONTINUED**

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Crim.	THE PEOPLE	(Not for Publication)
No.	v.	
C031492	DENNIS RAY HARDER	
	The judgment is affirmed.	
		DAVIS, J.
	We concur: SCOTLAND, P.J.	
	MORRISON, J.	

**MINUTES OF THE COURT OF APPEAL**  
**STATE OF CALIFORNIA**  
**THIRD APPELLATE DISTRICT**  
**WEDNESDAY, DECEMBER 8, 1999**

7

At 10:00 a.m., the court met in a special session at the Sacramento Community Center for the purpose of admission of new attorneys to the California State Bar.

PRESENT: HONORABLE ARTHUR SCOTLAND, Presiding Justice  
HONORABLE VANCE W. RAYE, Associate Justice  
HONORABLE HARRY HULL, JR., Associate Justice

Deena C. Fawcett, Assistant Clerk/Administrator  
Brad Conrad, Bailiff  
Theresa Pherigo, Administrative Specialist

Seating of State and local Bar representatives.

Court called to by Brad Conrad.

Presiding Justice Arthur G. Scotland welcomes admittees and introduces speakers.

Ms Anne E. Sheehan, Representing the Committee of Bar Examiners of the California State Bar, speaks to admittees and presents motion for admission.

Mr. James R. Greiner Board of Governors of the California State Bar, speaks to admittees.

Mr. Bruce Kline, Incoming President of the Sacramento County Bar Association, speaks to admittees.

Associate Justice Vance W. Raye speaks to admittees.

Associate Justice Harry E. Hull, Jr., speaks to admittees and reads from Section 6068 of the Business & Professions Code.

Presiding Justice Arthur G. Scotland speaks to admittees, rules on motion for admission, and directs clerk to administer oath.

Oath administered by Ms. Deena C. Fawcett, Assistant Clerk/Administrator.

Court adjourns.

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**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
WEDNESDAY, DECEMBER 8, 1999, CONTINUED**

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MISC. ORDER  
99-09

BY THE COURT:

Associate Justice Richard M. Sims III is appointed to serve as Acting Presiding Justice to discharge the duties described in Rules 75, 76, 77 and 78 of the California Rules of Court during the absence of the Presiding Justice from the court on December 9, 1999, or until his return. (See Cal. Const. Art 6, Sec. 3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

Civil           JAMES ALEXANDER  
No.            v.  
C033652      L. DIGGS et al.

BY THE COURT:

Appellant having failed to comply with this court's order of November 18, 1999, in C034084, Alexander v. The Superior Court of Lassen County; Diggs, the appeal filed September 8, 1999, is dismissed.  
Dated: December 8, 1999

SCOTLAND, P.J.

Civil           MARLENE TERRY BRENT  
No.            v.  
C033712      ROBERT O'HAIR AND WOODRUFF, O'HAIR & POSNER INC.  
BY THE COURT:

Pursuant to the written request of the appellant, the appeal filed September 21, 1999, is dismissed. It is further ordered that the remittitur issue forthwith. (See Cal. Rules of Court, rule 19(b).)  
Dated: December 8, 1999

SCOTLAND, P.J.

Civil           FNB MORTGAGE CORP. et al  
No.            v.  
C030439      PACIFIC GENERAL GROUP

The judgment is affirmed. Respondent shall recover his costs on appeal. (CERTIFIED FOR PARTIAL PUBLICATION)

KOLKEY, J.

We concur:       SIMS, Acting P.J.  
                    CALLAHAN, J.



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SCOTLAND, P.J.

The judgment is affirmed.

NICHOLSON, J.

We concur: SIMS, Acting P.J.  
KOLKEY, J.

Juvenile      In re RUSSELL F. et al., a Person Coming Under the Juvenile Court Law.  
(Not for Publication)

No.	SACRAMENTO COUNTY DEPARTMENT OF HUMAN AND HEALTH SERVICES
C033345	v. DEBORA F.

The orders of the juvenile court are affirmed.

SIMS, Acting P.J.

We concur

RAYE, J.  
KOLKEY, J.

Juvenile      In re BRENDON T., a Person Coming Under the Juvenile Court Law.

No. BUTTE COUNTY CHILDREN'S SERVICES DIVISION  
C032045 v.  
JANEL R.

The January 1999 order terminating appellant's visitation is reversed. SIMS, Acting P.J.

SIMS, Acting P.J.

We concur: MORRISON, J.  
KOLKEY, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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WEDNESDAY, DECEMBER 8, 1999 CONTINUED

Crim.	THE PEOPLE	(Not for Publication)
No.	v.	
C030488	WAYNE EVAN MORRIS	

The sentence imposed on count 5 (Veh. Code, § 2800.2), is hereby stayed (§ 654). The judgment is otherwise affirmed. The trial court shall prepare an amended abstract of judgment showing such stay and shall a copy of the same to the Department of Corrections.

SIMS, J.

We concur: BLEASE, Acting P.J.  
RAYE, J.

Crim.	THE PEOPLE	(Not for Publication)
No.	v.	
C031720	RICHARD KASSIDY BENDE	

The judgment is affirmed.

KOLKEY, J.

We concur: SIMS, Acting P.J.  
RAYE, J

Juvenile	In re KYREN W., a Person Coming Under the Juvenile Court Law.
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SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES

No.	v.
C033444	KRISTOPHER W.

The orders of the juvenile court are affirmed.

SIMS, Acting P.J.

We concur: RAYE, J.  
KOLKEY, J.

Crim.	THE PEOPLE	(Not for Publication)
No.	v.	
C030211	STEPHEN WAYNE MURPHY	

The judgment is affirmed.

BLEASE, Acting P.J.

I concur: NICHOLSON, J.  
I concur in the opinion except for part II where I concur in the result.  
SIMS, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
THURSDAY, DECEMBER 9, 1999**

11

Civil           JUNE E. McKEON  
No.             v.  
C033634       MERCY HEALTHCARE SACRAMENTO  
BY THE COURT:

On the court's own motion the appeal filed September 13, 1999, is dismissed. (See *Modica v. Merin* (1991) 234 Cal. App. 3d 1072). It is further ordered that appellant's motion for judicial notice is denied as moot. The clerk of the court is directed to return to the appellant the material provided with the motion for judicial notice.

Dated: DECEMBER 9, 1999

SIMS, Acting P.J.

Civil           MICHAEL POWERS                               (Not for Publication)  
No.             v.  
C030658       COUNTY OF ALPINE et al.  
The judgment is affirmed.

MORRISON, J.

We concur:   BLEASE, Acting P.J.  
                  NICHOLSON, J.

Crim.           THE PEOPLE                               (Not for Publication)  
No.             v.  
C029999       RONALD EDWARD CAUDEL

Defendant's conviction for assault with intent to commit rape (■220) (count three) is reversed. We remand for resentencing to permit the court to clarify whether sentence was imposed under section 1170.1 (in which case section 654 applies) or section 667.6, subdivision (c) (in which case section 654 would not bar punishment for false imprisonment), and in accordance with this opinion to impose the proper sentence thereunder. In all other respects, the judgment is affirmed.

HULL, J.

We concur:   DAVIS, Acting P.J.  
                  KOLKEY, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
DECEMBER 9, 1999, CONTINUED**

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Crim.	THE PEOPLE	(Not for Publication)
No.	v.	
C029875	MARJORY DARNELL MANN	
	The judgment is affirmed.	
		KOLKEY, J.
	We concur: SCOTLAND, P.J.	
	NICHOLSON, J.	